



Senate

General Assembly

File No. 273

January Session, 2017

Substitute Senate Bill No. 836

Senate, March 28, 2017

The Committee on Environment reported through SEN. KENNEDY of the 12th Dist. and SEN. MINER of the 30th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING CIVIL PENALTY REGULATIONS OF THE
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 22a-6b of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) The Commissioner of Energy and Environmental Protection
5 shall adopt regulations, in accordance with the provisions of chapter
6 54, to establish a schedule setting forth the amounts, or the ranges of
7 amounts, or a method for calculating the amount of the civil penalties
8 which may become due under this section. Such schedule or method
9 may be amended from time to time in the same manner as for
10 adoption provided any such regulations which become effective after
11 July 1, 1993, shall only apply to violations which occur after said date.
12 The civil penalties established for each violation shall be of such
13 amount as to insure immediate and continued compliance with

14 applicable laws, regulations, orders and permits. Such civil penalties
15 shall not exceed the following amounts:

16 (1) For failure to file any registration, other than a registration for a
17 general permit, for failure to file any plan, report or record, or any
18 application for a permit, for failure to obtain any certification, for
19 failure to display any registration, permit or order, or file any other
20 information required pursuant to any provision of section 14-100b or
21 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-
22 171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-
23 45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, subsection (b)
24 of section 22a-134p, section 22a-171, 22a-174, 22a-175, 22a-177, 22a-178,
25 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220,
26 22a-231, 22a-245a, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
27 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-
28 405, inclusive, 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433,
29 inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461,
30 22a-462 or 22a-471, or any regulation, order or permit adopted or
31 issued thereunder by the commissioner, and for other violations of
32 similar character as set forth in such schedule or schedules, no more
33 than one thousand dollars for said violation and in addition no more
34 than one hundred dollars for each day during which such violation
35 continues;

36 (2) For deposit, placement, removal, disposal, discharge or emission
37 of any material or substance or electromagnetic radiation or the
38 causing of, engaging in or maintaining of any condition or activity in
39 violation of any provision of section 14-100b or 14-164c, subdivision (3)
40 of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,
41 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections
42 22a-134 to 22a-134d, inclusive, section 22a-69 or 22a-74, subsection (b)
43 of section 22a-134p, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177,
44 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209,
45 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
46 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-
47 405, inclusive, 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433,

48 inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461,
49 22a-462 or 22a-471, or any regulation, order or permit adopted
50 thereunder by the commissioner, and for other violations of similar
51 character as set forth in such schedule or schedules, no more than
52 twenty-five thousand dollars for said violation for each day during
53 which such violation continues;

54 (3) For violation of the terms of any final order of the commissioner,
55 except final orders under subsection (d) of this section and emergency
56 orders and cease and desist orders as set forth in subdivision (4) of this
57 subsection, for violation of the terms of any permit issued by the
58 commissioner, and for other violations of similar character as set forth
59 in such schedule or schedules, no more than twenty-five thousand
60 dollars for said violation for each day during which such violation
61 continues;

62 (4) For violation of any emergency order or cease and desist order of
63 the commissioner, and for other violations of similar character as set
64 forth in such schedule or schedules, no more than twenty-five
65 thousand dollars for said violation for each day during which such
66 violation continues;

67 (5) For failure to make an immediate report required pursuant to
68 subdivision (3) of subsection (a) of section 22a-135, or a report required
69 by the department pursuant to subsection (b) of section 22a-135, no
70 more than twenty-five thousand dollars per violation per day;

71 (6) For violation of any provision of the state's hazardous waste
72 program, no more than twenty-five thousand dollars per violation per
73 day;

74 (7) For wilful violation of any condition imposed pursuant to
75 section 26-313 which leads to the destruction of, or harm to, any rare,
76 threatened or endangered species, no more than ten thousand dollars
77 per violation per day;

78 (8) For violation of any provision of sections 22a-608 to 22a-611,

79 inclusive, no more than the amount established by Section 325 of the
80 Emergency Planning and Community Right-To-Know Act of 1986 (42
81 USC 11001 et seq.) for a violation of Section 302, 304 or 311 to 313,
82 inclusive, of said act.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	22a-6b(a)
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ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the authority under the Department of Energy and Environmental Protection (DEEP) to impose civil penalties for violations relating to emergency action plans (EAP's) for certain dams or similar structures.

This may result in a minimal revenue gain to the resources of the General Fund to the extent violations occur.¹ It is anticipated that all municipally-owned dams currently have EAP's in place.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of civil penalties issued.

¹ In FY 16, there was \$322,132 collected for various types of civil penalties.

OLR Bill Analysis**sSB 836*****AN ACT CONCERNING CIVIL PENALTY REGULATIONS OF THE
DEPARTMENT OF ENERGY AND ENVIRONMENTAL
PROTECTION.*****SUMMARY**

This bill expands the Department of Energy and Environmental Protection (DEEP) commissioner's authority to levy civil penalties to include penalties for violating the law on developing and implementing emergency action plans for high or significant hazard dams or similar structures.

By law, the commissioner must adopt regulations establishing a civil penalty schedule for violations of various environmental statutes. The bill adds to this list a law requiring owners of high or significant hazard dams to develop and implement an emergency action plan that they must update and file every two years with DEEP and the chief executive officer of any municipality that would be affected in an emergency (CGS § 22a-411a).

As under existing law, the commissioner must set penalties designed to insure immediate and continued compliance that do not exceed the following maximum amounts:

1. up to (a) \$1,000 for each failure to file a plan and (b) \$100 for each day the violation continues, and
2. up to \$25,000 for each day of a violation for causing, engaging in, or maintaining a condition or activity in violation of the law on emergency actions plans.

By regulation, a high hazard dam is one whose failure would result in probable loss of life, damage to major utilities and roadways, or

great economic loss. A significant hazard dam is one whose failure would result in possible loss of life, damage to local utilities and roads or significant economic loss (Conn. Agency Regs. § 22a-409-2 (a)).

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/10/2017)